

FILED DISTRICT COURT
Third Judicial District

OCT - 1 2009

SALT LAKE COUNTY

By _____
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IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY

STATE OF UTAH

A. DAVID BARNES, M.D., P.C.,

Plaintiff,

vs.

FFCF INVESTORS, LLC, et al.

Defendants.

**ORDER COMPELLING DEPOSITION
OF RICHARD SMITH AND
IMPOSING SANCTIONS**

Case No. 080922273

Judge: Denise P. Lindberg

FFCF INVESTORS, LLC,

Plaintiff,

vs.

RICHARD SMITH, et al.

Defendants.

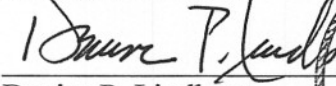
This cause came to be heard before this Court on the Receiver's September 1, 2009 Motion to Compel the Deposition of Richard Smith and to Impose Sanctions. The Court having considered the Receiver's motion and memorandum and the record in the case,

IT IS HEREBY ORDERED that:

1. The Receiver's motion is granted and Richard Smith is ordered to submit to a deposition by the Receiver and other parties in this case. The deposition shall be at a time, date, and location set by the Receiver. The Receiver and the parties will be allowed to continue the deposition for up to three days to permit the Receiver and the parties to each ask questions of Smith. The Receiver or any party can apply to the Court for permission to have the deposition continue for additional days, upon a showing of good cause.
2. Smith use his best efforts to recover documents responsive to the subpoena duces tecum that he has delivered to the possession or control of others.
3. Smith pay to the Receiver the attorney's fees and costs incurred by the Receiver in traveling to Provo on August 27, 2009 for the deposition and the time spent by the Receiver preparing his motion to compel. Within 20 days after the Receiver submits to the Court his application for fees, Smith is to pay the Receiver the amount of the fee request, unless: a) Smith or another party files an objection to the Receiver's application, b) the Court orders an alteration in the fee request, or c) Smith has provided to the Receiver a ~~sworn~~^{sworn} statement of all his assets and liabilities, demonstrating an inability to pay the fee award.

DATED this 1 day of ~~September~~^{October}, 2009.

BY THE COURT:


Denise P. Lindberg
Third District Court Judge

